

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

TONY W. REDMAN,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-00881

CHARLES E. KILGORE, JR., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's Complaint (Document No. 2) and Motion for Default Judgment (Document No. 16).

By *Standing Order* (Document No. 4) entered on June 30, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On January 14, 2011, the Magistrate Judge submitted *Proposed Findings and Recommendation* (Document No. 19) wherein it is recommended that this Court deny Plaintiff's Application to Proceed without Prepayment of Fees (Document No.1), deny Plaintiff's Motion for Default Judgment (Document No. 16), dismiss Plaintiff's Complaint (Document No. 2) and remove this matter from the Court's docket.


This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). Failure to file

timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Objections to Magistrate Judge VanDervort's PF&R were due within seventeen (17) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P.6(d), 72(b)(2). However, Plaintiff requested an extension of time in which to file his objections (Document No.21.) On February 4, 2011, the Court granted in part Plaintiff's motion and extended the deadline in which to file objections to February 25, 2011. (Document No. 22.) To date, Plaintiff has not filed any objections or made any further efforts to contact the Court.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Plaintiff's Application to Proceed without Prepayment of Fees (Document No.1) and Plaintiff's Motion for Default Judgment (Document No. 16) be denied. Lastly, the Court **ORDERS** that Plaintiff's Complaint (Document No. 2) be dismissed and that this matter be removed from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: March 4, 2011



IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA